

CHAPTER NO. 799

HOUSE BILL NO. 3043

By Representative Shepard

Substituted for: Senate Bill No. 2390

By Senator Graves

AN ACT to amend Tennessee Code Annotated, Title 56, relative to policies and procedures used in utilization review processes for the diagnosis and treatment of mental health care and chemical dependency disorders.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-6-702, is amended by deleting subsections (4) and (5) and replaced by the following new subsections:

(4) Improve communications and knowledge of benefit plan requirements among all parties concerned before expenses are incurred; and to

(5) Ensure that utilization review agents and procedures maintain and safeguard the confidentiality of all health-related records, especially mental health and chemical dependency disorders, in accordance with applicable laws and requirements of nationally recognized review accreditation bodies such as the Health Insurance Portability and Accountability Act (HIPAA) and the Utilization Review Accreditation Commission (URAC).

SECTION 2. Tennessee Code Annotated, Section 56-6-704(a), is amended by adding the following new sentence at the end of the subsection:

Utilization review programs for the mental health and chemical dependency care must comply with the most recent requirements of nationally recognized utilization review accrediting bodies (i.e., URAC) if such agent is accredited and with all final security and privacy rules on protected health information as defined in the Health Insurance Portability and Accountability Act (HIPAA). However, nothing in this act shall be construed to require compliance with the final security and privacy rules of HIPAA prior to the compliance dates set by the Secretary of the Department of Health and Human Services.

SECTION 3. Tennessee Code Annotated, Section 56-6-704(b), is amended by deleting the word "and" at the end of subdivision (2), deleting the period (.) at the end of subdivision (3) and substituting instead the language "; and", and by adding a new subdivision as follows:

(4) Utilization review programs for mental health and chemical dependency care shall make available to a provider submitting patient utilization review information a description of utilization review standards and procedures applicable to that provider.

SECTION 4. Tennessee Code Annotated, Section 56-6-705(a)(4)(A), is amended by adding the following new sentence at the end of the item:

For mental health and chemical dependency care, the person performing the utilization review in these appeal determinations must be both licensed at the independent practice level and in an appropriate mental health or chemical dependency discipline like that of the provider seeking authorization for the care denied.

SECTION 5. Tennessee Code Annotated, Section 56-6-705(a), is amended by deleting the word "and" at the end of subdivision (8), deleting the period (.) at the end of subsection (9) and by substituting instead the language "; and", and by adding a new subdivision as follows:

(10)

(A) For outpatient mental health and chemical dependency care, the patient must register pursuant to the requirements of the policy or contract. After such registration, the patient shall be approved for at least seven (7) visits to a particular provider, except as otherwise provided herein.

(B) Initial utilization review for such outpatient mental health or chemical dependency patients, shall be limited to no more than a two (2) page form to be submitted via facsimile or internet and pursuant to state and federal privacy rules, security rules, and any final rules issued pursuant to Health Insurance Portability and Accountability Act (HIPAA). After November 1, 2005, such form shall be restricted to a single page or sooner if required by the Health Insurance Portability and Accountability Act (HIPAA). After November 1, 2005, the provider may no longer submit the form via fax but is required to use the Internet to submit necessary information if the utilization review agent so requires. In the event that the utilization review agent elects to restrict such submissions to the Internet, provisions must be made to transmit information via fax in the event of computer malfunction.

(C) After the initial utilization review, additional information or follow-up utilization review shall be limited to no more than eighteen percent (18%) of the total number of mental health and chemical dependency patients reviews performed by the utilization review agent for the previous year adjusted for the difference of covered lives in this state for the present calendar year or as otherwise required by URAC. Such eighteen percent (18%) limit shall not apply to utilization review applicable to at risk populations, patients seen more than two (2) visits a week and patients for which substance abuse is reported or suspected. Calls from reviews to providers for appointment follow-up calls or for the credentialing process shall also not be subject to the eighteen percent (18%) limit.

(D) After utilization review as provided above, patients shall be authorized for at least seven (7) additional visits or as otherwise recommended by the treatment plan.

(E) Nothing in this act shall be construed to require compliance with the final security and privacy rules of HIPAA prior to the compliance dates set by the secretary of the department of health and human services.

(F) Nothing herein shall affect the policy or contract benefits nor shall it affect the Mental Health Parity Act, Tennessee Code Annotated, Sections 56-7-2601 and 56-7-2360.

SECTION 6. Nothing in this act shall apply to the TennCare Program.

SECTION 7. This act shall take effect on November 1, 2002, the public welfare requiring it.

**PASSED: May 22, 2002**

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

**APPROVED this 29<sup>th</sup> day of May 2002**

  
DON SUNDQUIST, GOVERNOR